

- ☒ **New Matter**
- ☐ **Amendment Relating to a Pending Matter**

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**IN RE: FRESENIUS  
GRANUFLO/NATURALYTE DIALYSATE  
PRODUCTS LIABILITY LITIGATION**

**This Document Relates To:**

**FLORELLA DIAL, ANTICIPATED  
PERSONAL REPRESENTATIVE OF THE  
ESTATE OF CARLEY DIAL**

**MDL No. 1:13-md-2428-DPW**

**SHORT-FORM COMPLAINT  
AND DEMAND FOR JURY  
TRIAL**

The Plaintiff(s) named below file this *Short-Form Complaint* against the Defendants named below and incorporate *The Master Complaint and Jury Demand* filed in MDL No. 2428 by reference. Plaintiff selects and indicates by checking-off where requested, those products, Parties and claims that are specific to his or her case. Plaintiff(s) further allege as follows:

1. Plaintiff: CARLEY DIAL, Deceased
2. Plaintiff's Spouse (*if applicable*): FLORELLA DIAL
3. Other Plaintiff and capacity, if applicable (*i.e.*, administrator, executor, guardian, conservator, etc.): FLORELLA DIAL, as Anticipated Personal Representative of the Estate of CARLEY DIAL.
4. State of Residence: North Carolina
- 5a. ☒ By checking here, I choose Massachusetts as the "home" forum.
- 5b. If you did not chose Massachusetts as the "home" forum, identify the United States District Court and Division in which venue would be proper absent direct filing
6. Defendant(s) [*check each Defendant against whom Complaint is made*]:<sup>1</sup>

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<sup>1</sup> If additional Counts and/or Counts directed to other Defendants are alleged, the specific facts supporting these allegations must be pleaded by the Plaintiff in a manner complying with the requirements of the Federal Rules of Civil Procedure, and the Defendants against whom they are alleged must be specifically identified on a separate sheet of paper attached to the *Short Form Complaint*.

- ☒ FRESenius MEDICAL CARE HOLDINGS, INC.
- ☒ FRESenius MEDICAL CARE HOLDINGS, INC. d/b/a FRESenius MEDICAL CARE NORTH AMERICA
- ☒ FRESenius USA, INC
- ☒ FRESenius USA MANUFACTURING, INC.
- ☒ FRESenius USA MARKETING, INC.
- ☒ FRESenius USA SALES, INC.
- ☒ FRESenius MEDICAL CARE AG & CO. KGaA.
- ☒ FRESenius MEDICAL CARE MANAGEMENT AG.
- ☒ FRESenius SE & CO, KGaA.
- ☒ FRESenius MANAGEMENT SE.
- ☐ Other

7. Basis of Jurisdiction

- ☒ Diversity of Citizenship
- ☐ Other

Other allegations of jurisdiction and venue:

8. On or about February 3, 2012, Decedent suffered from a cardiac arrest and died the same day which is alleged to have been caused by Defendants NaturaLyte and/or GranuFlo administered to Plaintiff for dialysis treatment at:

Fresenius Medical Care Pembroke, 1327 Harry West Lane, Pembroke, NC 28372

9. The following claims asserted in *The Master Complaint and Jury Demand*, and the allegations with regard thereto, are herein adopted by reference:

- ☒ Count I - STRICT LIABILITY
- ☒ Count II - NEGLIGENCE FAILURE TO WARN
- ☒ Count III - NEGLIGENCE DESIGN
- ☒ Count IV - NEGLIGENCE

- ☒ Count V - NEGLIGENCE MISREPRESENTATION
- ☒ Count VI - BREACH OF IMPLIED WARRANTY OF MECHANABILITY
- ☒ Count VII - BREACH OF IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE
- ☒ Count VIII - BREACH OF EXPRESS WARRANTY
- ☒ Count IX - FRAUD
- ☒ Count X - VIOLATION OF CONSUMER PROTECTION LAWS
- ☐ Count XI - LOSS OF CONSORTIUM
- ☒ Count XII - WRONGFUL DEATH
- ☒ Count XIII- SURVIVAL ACTION
- ☐ Other Count(s) (*See* FN1)

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10. Plaintiff asserts the following additional theories against the Defendants identified in Paragraph 6 above (*See* FN1):


11. Plaintiff asserts the following additional theories against Defendants other than those identified in Paragraph 6 above (*See* FN1):


**WHEREFORE**, Plaintiffs pray for relief as set forth in *The Master Complaint and Jury Demand* filed in MDL No. 2428.

DATED: March 21, 2014

By: s/Lauren Guth Barnes

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